

1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK

3 UNITED STATES OF AMERICA,

4 v.

15 Cr. 769 (AJN)

5 YURI LEBEDEV and TREVON GROSS,

6 Defendants.

Jury Trial

7 -----x
8 New York, N.Y.
9 March 17, 2017
9:38 a.m.

10 Before:

11 HON. ALISON J. NATHAN,

12 District Judge
13 And A Jury

14 APPEARANCES

15 PREET BHARARA

16 United States Attorney for the
17 Southern District of New York

18 BY: EUN YOUNG CHOI

19 WON S. SHIN

Assistant United States Attorneys

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23 BY: KRISTEN M. SANTILLO

24 BY: HENRY E. KLINGEMAN

1 THE COURT: I have a bit of a struggle with talking
2 because of Novocaine. Forgive me.

3 I'm going to let you do most of it. Go ahead,
4 Mr. Shin.

5 MR. SHIN: Yes, your Honor. Just for the record, the
6 government submitted a request last night by email to your
7 Honor's chambers in which we flagged a potential scheduling
8 issue, and so we recalled that during voir dire, the juror who
9 was subsequently seated as juror number 2, she had raised a
10 concern that on Monday, March 20th, which is this coming
11 Monday, she had a work exam scheduled, and she --

12 THE COURT: Let me pause you.

13 Mr. Creizman, Mr. Lebedev's not here.

14 MR. CREIZMAN: Yes. I'm waiving his appearance with
15 his permission. He emailed me from the -- he said he was on a
16 train, that he was a passenger, he's on his way, and he says
17 he'll be here shortly. But I told him about the nature of this
18 particular conference, the issue that's being raised, and he
19 agrees to waive his appearance.

20 THE COURT: All right, thank you. Go ahead.

21 MR. SHIN: And so the juror stated at the time that
22 she might be able to move it, but she didn't know. We also
23 recalled that your Honor, toward the end of the trial,
24 mentioned during one of our breaks that there were a number of
25 potential juror issues that could come up in the near future,

1 and your Honor cited one of the juror's exams as one of those.
2 Given that we're here on Friday, and the exam as originally
3 stated would begin on Monday, we thought it would be prudent
4 for the Court to inquire with that juror, first, whether she is
5 still in fact scheduled to take the exam on Monday, and perhaps
6 your Honor could also inquire as to when in the day it is, how
7 long it might take, whether she thinks she would be in a
8 position where, if it was early enough in the day, she could
9 deliberate in the afternoon or whether she needs to get her
10 head together and come back the next day.

11 In any event, based on that information, if she is in
12 fact still taking the exam on Monday, the government submits
13 that it would make sense to, one, go ahead and make a decision
14 as to what to do about Monday. The government proposes that if
15 she is taking the exam, the jury should be given a break or
16 some or all of Monday to accommodate that juror, and if we were
17 to make that decision, for the jury to be informed of that as
18 early as possible today. Our thinking on that in terms of
19 informing the juror, to relieve pressure that juror might feel
20 about needing to get things done before the exam on Monday, and
21 also it would permit the other jurors to make plans in the
22 event that they were not to sit on Monday, they could maybe go
23 in, catch up on work or not have to call in a babysitter,
24 et cetera. This may all be moot if she did in fact move her
25 exam, but we thought the best first step was to inquire with

1 that juror.

2 THE COURT: There is the related issue of juror number
3 5 who, as you well recall, indicated over the snow day by
4 email, and I conveyed, that she has tickets to chaperone the
5 school trip leaving Sunday for eight days. I haven't
6 communicated anything further with her. She was leaving last
7 night and she said to Ms. Nuñez something along the lines of "I
8 just want to make sure it's clear again, if we're not finished,
9 I have these tickets". So I think for similar reasons we need
10 to have a strategy with respect to at least those two jurors,
11 and then I think assessing what other steps we might need to
12 take.

13 MR. SHIN: Right, your Honor. So we're aware of that
14 issue as well. I think those two conflicts, they are different
15 of course in terms of one being, I assume, most of the day an
16 exam, and the other being eight days, your Honor. So our
17 thinking was that at least for the Monday issue with juror
18 number 2, that again, given that that's coming up on Monday and
19 it would be a relatively short break if in the end it's needed,
20 but that's something that we could decide sooner rather than
21 later and let the jury know.

22 Juror number 5, I mean, given that it's eight days, I
23 think we would all agree that that juror should be excused if
24 deliberations were to stretch past Sunday and she would be
25 unavailable. Of course, your Honor would then have two

1 options. One is to -- I guess there would be three options.
2 One is to seat an alternate under Rule 24, the second is if the
3 parties consent to go to 11, and the third is, even without the
4 parties' consent, the Court could order the jury to go to 11
5 based on a good cause excusal of that juror. That decision, I
6 think, is a more momentous sort of decision than simply taking
7 a break for a day with juror number 2, so our thought was with
8 number 5, in terms of what to do about that, in terms of
9 seating an alternate versus going to 11, that's something
10 perhaps -- we're happy to talk about it, but maybe that
11 decision could wait until we actually find out whether it's
12 needed by the end of the day.

13 THE COURT: My point is that nothing's been
14 communicated to her.

15 MR. SHIN: To that juror?

16 THE COURT: Yes.

17 MR. SHIN: Right.

18 THE COURT: So she doesn't know what will happen come
19 Sunday --

20 MR. SHIN: Right.

21 THE COURT: -- if they're not done.

22 MR. SHIN: Right.

23 THE COURT: Mr. Klingeman.

24 MR. KLINGEMAN: Your Honor, I would suggest we do the
25 following in the following order:

1 I think it would be appropriate to have the court
2 staff notify one or more alternates that they may be needed
3 Monday, and to please make themselves available as a
4 consequence. Two, I think we should allow the deliberations to
5 continue at least through the morning. It's apparent that the
6 jury is working, there's no sign of anything other than an
7 orderly deliberation, and I would counsel against making
8 inquiry about any of these issues for the next couple of hours.

9 Obviously, as we get towards the middle to end of the
10 day and it becomes more likely, or at least more plausible that
11 the jury may not reach a conclusion today, then I think we
12 should make some decisions.

13 Obviously, I agree that juror number 5 would have to
14 be excused. She is simply unavailable past today. As to juror
15 number 2, the jurors with respect to individual personal issues
16 and conflicts have not been shy about letting us know, and
17 we're talking about, of course, the foreperson who has been in
18 direct communication with the Court

19 THE COURT: Good morning, Mr. Lebedev.

20 MR. KLINGEMAN: So I'm confident that she's aware of
21 her schedule and her ability to advise us to that. In terms of
22 her potential unavailability on Monday, since we would, I would
23 hope, be seating an alternate for number 5 anyway, and your
24 Honor would be advising the jury to start its deliberations
25 anew, so to speak, I see no reason not to consider seating

1 another alternate for juror number 2.

2 THE COURT: I'll just pause you on my thinking on the
3 alternate. I don't think we can make that assessment until we
4 know the broader landscape of the other jurors. Because if
5 seating an alternate and starting over will quickly lead into
6 multiple jurors needing to be excused, then we are in good
7 cause territory for proceeding to 11.

8 MR. KLINGEMAN: Which is why I do suggest we wait at
9 least a few hours to see what shakes out today before we open
10 that Pandora's box by voir diring one or more of the jurors
11 about next week.

12 THE COURT: Mr. Creizman.

13 MR. CREIZMAN: I could not have said it any better
14 than Mr. Klingeman did, that he expressed my position fully.

15 THE COURT: Okay.

16 MR. CREIZMAN: Thank you.

17 MR. SHIN: Your Honor, I just don't see any harm in
18 trying to get the information from the jurors as early as
19 possible today so that your Honor and the parties could assess
20 what we should do in light of the various circumstances at
21 play. It would also -- to the extent we make a decision
22 earlier in the day about, for example, the government's
23 proposal regarding taking a break on Monday for juror number 2,
24 it would allow the Court, if we were to go down that road, to
25 communicate that to the jury and allow them to start making

1 arrangements, for example, if they were to take a very brief --
2 I think they were deliberating over lunch, but if they were to
3 take a short break over lunch, it would allow them to make
4 whatever arrangements might be needed for Monday. Again, just
5 as a courtesy and consistent with what we've done previously in
6 terms of inquiring as early as possible and trying to be
7 courteous to their schedules, as well, in terms of giving them
8 advanced notice.

9 THE COURT: I guess a couple of things. The pattern
10 that I've tried to adopt, and I recognize you had wanted to
11 raise this before the jurors came in, but is not to interrupt
12 the deliberations if at all possible, so taking the opportunity
13 of either following a note or when their lunch is being brought
14 in as a moment to speak to any of them as needed.

15 Number 2, it's a little bit more than a short break if
16 you think about enabling them to make plans for Monday. So
17 there would be a break in assessing the juror's exam situation,
18 then we'd have to reconvene and discuss and agree upon a plan,
19 then if we were to give the jurors a break at that point, it
20 would need to be long enough for them to go downstairs, get
21 their phones and the like, make calls. And my concern is, the
22 more we do that, the less time they have today to deliberate
23 and the more time they have today to deliberate, the more
24 likely we'll get to a conclusion, or at least one can't know
25 for sure, but more time to deliberate by its nature means more

1 time to come to some determination.

2 MR. SHIN: You've convinced me, your Honor.

3 THE COURT: I'm amazed you could understand me.

4 MR. SHIN: I was able to understand you. As long as
5 the inquiry is made at some point today, I think your Honor's
6 proposal for addressing it as lunch is brought in is sensible.
7 But as long as the inquiry is made so we have the relevant
8 facts, that's the more important point. And I think on that,
9 we're all in agreement.

10 THE COURT: If we bring them in as their lunch is
11 being brought in, I'm open to suggestions. My basic thinking
12 would be juror number 5 has inquired, so my inclination would
13 be to meet with her, make clear I don't want to hear anything
14 about her deliberations or the thought process or the like, let
15 her know that if the process is not complete by Friday -- and I
16 suppose we can bracket for a moment whether or not using
17 tomorrow is an option, but let's -- so for now, I'll say if the
18 process is not complete by Sunday, I want her to know that
19 she'll be able to go on her trip.

20 My thinking is to leave it at that, no further
21 explanation one way or the other, because I don't know yet as
22 to how we'll proceed, but at least that takes any wonder she
23 has as to her own fate come Sunday off the table.

24 Then I think, and maybe this would be in the reverse
25 order, I would bring in the jury, let them know that juror

1 number 5 has indicated that she wants to raise a scheduling
2 concern and indicate that I'll meet with her, and then say
3 something along the lines that involves next week, and then say
4 something along the lines, of course, if anyone else has any
5 immovable conflicts, to the extent that the process is not
6 complete today, they should communicate that to Ms. Nuñez so
7 that I can address it. Ms. Nuñez can then walk them back
8 toward the jury room, and any of them could approach her with
9 any issues to take up. That, I think, balances Mr. Klingeman
10 and Mr. Creizman's concern about not overly planting a seed,
11 not stepping on the toes of deliberations today, but making
12 clear that there is an outlet available to communicate, which I
13 think they know and it's been exercised by a few as to that.

14 I guess my thinking is, juror number 2, and you're
15 right, there had been the express concern about an exam toward
16 the end of the trial when a few jurors indicated issues, which
17 we addressed, and I think it was also phrased as needing to
18 study for the exam and the like. So I guess my feeling is that
19 that would provide a clear window for letting Ms. Nuñez know.

20 As they're going back, I would take juror number 5
21 into the robing room and proceed as I indicated.

22 MR. KLINGEMAN: I totally agree. I just wanted to
23 repeat my request that we notify the alternates. Looking ahead
24 to the issue of whether we go to 11, I would -- I can tell you
25 I'm going to ask the Court not to exercise any discretion in

1 that regard unless and until we exhaust our opportunity to use
2 the four alternates, none of whom have been substituted to this
3 point.

4 THE COURT: You'll certainly have the opportunity, but
5 I don't think you have the information now to make such a
6 request because if starting the process over -- if four or five
7 jurors tell us that they turn into pumpkins come Monday,
8 Tuesday, Wednesday, Thursday of next week --

9 MR. KLINGEMAN: I couldn't agree more. I'm more
10 worried about the alternates turning into pumpkins between now
11 and then, as we had a problem with alternate number 1 earlier
12 this week.

13 THE COURT: The proposal would be to have Ms. Nuñez
14 contact all four alternates and indicate there's a possibility
15 they'll be needed Monday, and to inquire as to any conflicts
16 with that.

17 I'll just say, too, I don't think we can make any -- I
18 can't make any assessment, but as a background piece, when I
19 think about deliberations that have gone on for a week, this is
20 a jury that, again, was told that this would be a three to
21 four-week trial, and they're already at the end of week five,
22 and so that will be a factor in my consideration as to good
23 cause, as we learn what other potential scheduling issues or
24 not there are.

25 Mr. Shin.

1 MR. SHIN: Just on the alternates, your Honor. The
2 government agrees with your Honor that it's too early to know
3 whether we're going to need to call any of them in on Monday.
4 And again, given the number of jurors who may raise issues when
5 the Court makes that available for them after calling them in,
6 and also given that we don't know whether your Honor might
7 choose to go to 11 versus seat an alternate, so we would just
8 be -- I think we'd be opposed to calling anyone in at this
9 point until we have more information.

10 THE COURT: Why not take the prophylactic step? It
11 doesn't cut off any options.

12 MR. SHIN: I'm sorry. The prophylactic step would be
13 to contact them?

14 THE COURT: Alert them, as we did with the two over
15 the snow day, there's a possibility that their presence will be
16 needed come Monday to find out if there are any -- have
17 Ms. Nuñez just alert them to that, make sure we have contact
18 information, and have her inquire if there are any unmovable
19 conflicts that would interfere with their being summoned back
20 come Monday.

21 MR. SHIN: That limited step seems fine to the
22 alerting function and to inquire whether they have any
23 conflicts. I think we would just be opposed at this point to
24 actually having them called in until we know more. But I think
25 what your Honor proposed, the limited contact as a prophylactic

1 measure, seems fine.

2 THE COURT: That's what you're seeking, Mr. Klingeman?

3 MR. KLINGEMAN: Exactly.

4 THE COURT: Great. We're in vigorous agreement. Let
5 me just repeat the plan.

6 If we don't have a decision by the lunch break, when
7 the lunch arrives, before it's brought in, we'll bring them
8 out, I'll indicate that juror number 5 has communicated to
9 Ms. Nuñez an upcoming conflict beginning next week if the
10 process is not complete by the end of the day today, and
11 indicate that I'll speak to that juror in the robing room and
12 ask the other jurors to enjoy their lunch but pause
13 deliberations until that juror returns.

14 I'll say also, if the process is not complete by the
15 end of the day, if there are other jurors that foresee
16 immovable conflicts as to next week, they should alert
17 Ms. Nuñez on the way back to the jury room, give her a brief
18 description, and then I'll be able to address the issue. That
19 is the plan.

20 There is the alerting the alternate jurors as to the
21 possibility they might be needed starting Monday and getting a
22 read on their availability.

23 To follow through with respect to juror number 5, I
24 would take her into the robing room with the court reporter,
25 warn her about no discussions regarding deliberations, make the

1 inquiry which is what's only been communicated through
2 Ms. Nuñez at this point, but make the inquiry as to the
3 upcoming conflict and then simply let her know that if the
4 process is not complete, she will be able to travel as planned.

5 MR. SHIN: That sounds fine, your Honor. Just one --
6 your Honor raised the issue of Saturday, tomorrow.

7 THE COURT: Yes.

8 MR. SHIN: I don't think we have this fully thought
9 out, but the question is, when your Honor has them in to
10 provide this information over the lunch break, would it make
11 sense at that point to remind them of the possibility of
12 staying late today and even deliberating tomorrow if -- again,
13 if they're available and if they agree and, obviously, if they
14 haven't reached a decision by then, just because it may not be
15 immediately obvious to them that that's an option, and given
16 that --

17 THE COURT: It's not yet immediately obvious to me
18 that it's an option.

19 MR. SHIN: I wanted to raise that for discussion given
20 that if that is something we would want to alert them about,
21 the lunch break might be the natural time to do it. So I just
22 wanted to flag that for your Honor, and I guess open it up for
23 discussion.

24 THE COURT: Right.

25 MR. CREIZMAN: Your Honor, I can't say I'm the most

1 observant Jewish person, but I don't roll on Saturdays, as the
2 Big Lebowski says. I don't work on the Saturdays.

3 THE COURT: Okay. I suppose that still leaves the
4 request of whether Ms. Madrigal can be here.

5 MR. CREIZMAN: Right. I'm sure Ms. Madrigal could be
6 here, but wouldn't everyone miss me is what I'm thinking?

7 THE COURT: The Novocaine prevents me from responding.
8 I think we might run into all kinds of scheduling
9 issues.

10 MR. KLINGEMAN: In addition, your Honor, I just looked
11 at the weather forecast, and we may get more snow tomorrow.
12 There's that to think about.

13 MR. SHIN: Your Honor, if you left it kind of
14 open-ended, if you reminded them that it's up to them whether
15 they want to stay late today, and it's also up to them whether,
16 if they're not complete by whenever they decide to finish
17 today, tomorrow is a possibility. It's among themselves. If
18 they go back and someone has a conflict and can't do it, then
19 that will just be off the table and it'll be resolved. But if
20 by some miracle the 12 of them would be available and would
21 want to do it so as to have juror number 5 participate before
22 she leaves and they feel that they might reach a conclusion,
23 seems sensible to give them that option.

24 THE COURT: Yes.

25 (Note received from jury)

1 THE COURT: It's just the lunch order.

2 My law clerk is proving his versatility and sending me
3 a weather forecast.

4 I suppose a soft version is something along the lines
5 of what Mr. Shin suggested, remind them, as with the other
6 days, if the process is not complete by the end of the day,
7 it's up to them as to when they stop, whether it's 5:00, or if
8 proceeding beyond 5:00 is what they wish they should simply let
9 us know. I could plant the seed, too, that it is up to them,
10 if whatever time they decided they need to stop, if they would
11 deem it possible and helpful to them to have time tomorrow,
12 that, too, could be arranged and they should simply let the
13 Court know through note, as they have with end of the day time.

14 MR. SHIN: That sounds. Many leaves it essentially in
15 their hands.

16 MR. KLINGEMAN: I agree, your Honor. And just so you
17 know where we're coming from, we want to keep the deliberations
18 going so --

19 THE COURT: I know. Yes. And of course, it's just --
20 we all want to -- it's that balance between giving them options
21 and making sure there are no expectations as to the amount of
22 time it takes, nor obstacles to their continuing their
23 deliberations if that's what they choose.

24 I think we have our plan. I think we'll stick to that
25 as the timing plan even if we were to get a note. I just think

1 the lunch break is a good opportunity, to the extent it will
2 also require separate inquiry and the like.

3 Anything else, folks?

4 MR. SHIN: Just when would you like us back for the
5 lunch break, your Honor? I'm not sure when the lunch break is.

6 THE COURT: That usually comes around 12:30, so why
7 don't we say 12:15.

8 MR. SHIN: Thank you.

9 MR. KLINGEMAN: Thank you.

10 THE COURT: Thank you. We'll wait to hear from them.

11 (Recess)

12 THE COURT: The jury has reached its verdict. We'll
13 bring them in. Anything to take up?

14 MS. CHOI: No, your Honor.

15 MR. KLINGEMAN: No.

16 THE COURT: We'll indicate Court Exhibit 9,
17 indicating, "We, the jury, have reached a verdict."

18 I will poll.

19 MR. KLINGEMAN: Thank you.

20 (Jury present)

21 THE COURT: I'll ask the foreperson, has the jury
22 reached its verdict?

23 FOREPERSON: Yes, your Honor.

24 THE COURT: I'll ask you to please hand the verdict
25 form to my deputy so that it may be passed to me.

1 Ladies and gentlemen of the jury, I am about to read
2 the verdict. After I do so, I will ask each of you, "Is this
3 your verdict?"

4 Verdict form:

5 Count Number One, Yuri Lebedev, guilty. Trevon Gross,
6 guilty.

7 Count Two, Yuri Lebedev, guilty.

8 Count Three, Trevon Gross, guilty.

9 Count Four, Yuri Lebedev, guilty.

10 Count Five, Yuri Lebedev, guilty.

11 Count Six, Yuri Lebedev, guilty.

12 (Jury polled; each juror answered in the affirmative)

13 THE COURT: The jury is unanimous.

14 Counsel, is there any reason that I cannot dismiss
15 this jury?

16 MR. KLINGEMAN: No, your Honor.

17 MS. CHOI: No, your Honor.

18 MR. CREIZMAN: No, your Honor.

19 THE COURT: Ladies and gentlemen of the jury, I will
20 now dismiss you from your jury service in this matter. After
21 you leave, you are free to discuss this case if you like, or
22 not discuss this case if that's what you'd like. If you do
23 discuss the case with anyone, I ask that you please share only
24 your views and that you respect the privacy of the deliberation
25 process. Please do not share the views of any other jurors.

1 Let me say my sincere thanks on behalf of myself, on
2 behalf of the Court, the parties for your attention, time, and
3 service.

4 I'll dismiss you to return to the jury room to get
5 your things and be on your way. I'll tell you that if you'd
6 like to stay for a few moments, I'll come to the jury room in a
7 few moments to thank each of you for your service. But again,
8 you're absolutely free to go as you like, but if you'd like to
9 stay for a few moments, I'll be down in the jury room shortly.

10 Once again, I am deeply grateful for your service.
11 You are dismissed. Thank you.

12 (Jury dismissed)

13 THE COURT: The jury verdict form, the completed form
14 will be marked as Court Exhibit 10.

15 Counsel.

16 MR. SHIN: Your Honor, the government has an
17 application on bail as to each defendant, if your Honor would
18 like to take that up at this time.

19 THE COURT: Go ahead.

20 MR. SHIN: We're not seeking to remand either
21 defendant at this time, your Honor, but in light of the
22 shifting standard that applies post conviction, the government
23 is seeking an increase -- a modification in the bail terms for
24 each of the defendants.

25 My recollection is that Defendant Lebedev is out on a

1 \$25,000 bond with -- my memory fails me as to whether it's one
2 or two cosigners. We would seek at this time that
3 Mr. Lebedev's bond be increased to \$250,000 with three
4 financially responsible persons cosigning.

5 As to Mr. Gross, my recollection is that his bond is
6 \$100,000, again, with either one -- I believe it's one
7 cosigner. The government would seek at this time a \$500,000
8 bond for Mr. Gross with three financially responsible persons.

9 The basis for our differential request as between the
10 two defendants is principally based on Defendant Gross' greater
11 role in the crime, as well as his obstructive conduct in the
12 case, and his, what the government will argue at sentencing,
13 was perjury during his testimony, and so we would ask for an
14 increase in those respective bail conditions.

15 We would also ask for Mr. Gross that there be a bail
16 condition that any access that he may have to the Hope
17 Cathedral financial accounts be terminated in some way. As
18 your Honor heard during the trial, there was evidence that the
19 government offered regarding his access to the accounts and his
20 use of the accounts essentially for his personal use, taking
21 funds, writing checks to himself, his personal use of the
22 accounts, and in light of that, the government would request
23 that any access to those accounts be terminated as a condition
24 of his bail.

25 THE COURT: What's the government's position with

1 respect to time to satisfy, if I grant such a request?

2 MR. SHIN: Typically, for those sorts of things,
3 typically the magistrate judges give a week to satisfy
4 conditions like these, and so we would propose one week, your
5 Honor.

6 THE COURT: All right.

7 Mr. Creizman.

8 MR. CREIZMAN: Yes, your Honor. Mr. Lebedev's bond is
9 signed by his wife and his mother and him, obviously. I
10 understand the government's application for an increased
11 amount, but I don't believe that such a significant increase is
12 warranted, or any increase in the number of cosigners.
13 Mr. Lebedev has completely complied with all of his pretrial
14 obligations, and he's shown up to court every day. He's
15 appeared for everything.

16 THE COURT: Here's what I -- I think what I'd like to
17 do is to get -- since the government is agreeing to a week
18 before any changes are made, I'm going to take a brief written
19 submission on this and give folks time to think about it and
20 know what's available, and I want to think about it and also
21 confirm with probation that all conditions have been met and
22 the like.

23 The government's submission I'll ask by the end of the
24 day today, and Monday for the defendants'.

25 MR. CREIZMAN: Monday.

1 THE COURT: Okay. Mr. Klingeman.

2 MR. KLINGEMAN: Thank you.

3 THE COURT: All right. Go ahead.

4 MR. CREIZMAN: I'm sorry. Is the government going to
5 put in its application first?

6 THE COURT: Yes.

7 MR. CREIZMAN: Okay, fine.

8 THE COURT: End of day today for the government.

9 MR. CREIZMAN: I see.

10 THE COURT: Monday for the defendants, end of the day
11 Monday.

12 MR. CREIZMAN: I understand.

13 THE COURT: Other matters?

14 MR. KLINGEMAN: No, your Honor.

15 THE COURT: Okay.

16 MS. CHOI: No, thank you, your Honor.

17 THE COURT: Why don't you confer on scheduling. Go
18 ahead.

19 MR. CREIZMAN: No, I'm just standing up.

20 THE COURT: Okay.

21 MS. CHOI: Your Honor, I think it would be proper to
22 put in an order for probation to start the presentence report
23 so we can talk to defense counsel as to a specific date.

24 THE COURT: My standard is to set four months for
25 those out of custody, and that's the request of the probation

1 officer. Why don't we pick a date four months, and then within
2 a week you can -- unless you can put in requests for an
3 alteration of that, but I'll get a date from the deputy for
4 four months out, and I will order the preparation of the
5 presentence report.

6 Defense counsel, I assume that you wish to be present
7 for any interview in connection with the report?

8 MR. CREIZMAN: Yes.

9 MR. KLINGEMAN: Yes, please.

10 THE COURT: I order there be no interview by probation
11 department unless counsel is present.

12 Mr. Lebedev and Mr. Gross, the presentence report that
13 will be prepared by the probation department is important to me
14 in determining what sentence to impose. I encourage you to
15 read it and discuss it with your counsel. If there are any
16 errors in the report, point them out to your attorneys so they
17 can bring it to my attention before sentencing.

18 Sentencing is set for Friday, July 20th at noon for
19 Mr. Lebedev, and 2:00 p.m. for Mr. Gross.

20 MR. CREIZMAN: Your Honor, if your Honor would be open
21 to this application. This jury obviously put a lot of time
22 into deliberating and has thought about it. And if your Honor
23 were to ask the jurors at their option, whoever wants to stay
24 could stay, but if they are interested in meeting, counsel just
25 who has some questions, not for any other purpose, just to

1 understand what they thought about various pieces of evidence,
2 I think I would appreciate the opportunity.

3 THE COURT: I'll remind them it's up to them whether
4 they want to speak to anybody, and I'll indicate an attorney
5 has expressed an interest.

6 MR. KLINGEMAN: Your Honor, before we adjourn, I just
7 wanted to renew our motion under Rule 29 and preserve our
8 ability to submit on that at your Honor's direction.

9 THE COURT: Okay.

10 MR. CREIZMAN: Your Honor, the same here. We renew.

11 THE COURT: Why don't you confer on a briefing
12 schedule and submit it to me by Wednesday of next week.
13 Agreed-upon schedule, if you can, and if not, your differing
14 views.

15 Anything else to take up?

16 MS. CHOI: Not from the government, your Honor. Thank
17 you.

18 MR. CREIZMAN: No, your Honor.

19 MR. KLINGEMAN: No.

20 THE COURT: Thank you again, everyone. We are
21 adjourned.

22 (Adjourned)
23
24
25